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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th day of May, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 22632 of 1992

1. Basavana Balaga (Regd),
Someswara Extension,
Tumkur, by its President
Sri G. Sharanaiah;
2. G.C. Basappa,
son of late Channabasavaradhya,
Retired Junior Engineer,
9th Cross, third Main,
S.I.T.Extension,
Tumkur;
3. Sri Hanumanthaiah,
son of late Dasappa,
Maruthi Nilaya, Vth Cross,
S.I.T. Extension,
Tumkur-02;
4. Sri G. Sharaniah,
s/o late Gangaiah,
No.37, S.S.Puram,
Tumkur-2;
5. Sri H.K.V.Iyengar,
s/o late H. Krishna Iyengar,
No.6, 9th Cross,
S.S.Puram, Tumkur-2;
6. Sri G. Malliah,
son of late Gangappa,
No.9, VIII Cross,
S.S.Puram,
Tumkur-2;
7. Sri A.N. Gundu Rao,
son of late Narayana Rao,
Gokula Road, third Cross,
S.I.T. Extension, Tumkur-2;

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8. Sri S. Kadaiah,
son of late Subbaiah,
Sixth Cross, Vijayanagar,
S.S.Puram Extension,
Tumkur;
9. Sri H. Boraiah,
son of Sri Lingaiah,
Retired Post Master,
9th Cross, S.I.T. Extension,
Tumkur;
10. T.S.Siddappa,
son of Sri Siddalingaiah,
No.36, S.S.Puram,
Tumkur;
11. Sri A.C. Shambhu,
Siddalingeswara Stationary
Mart, S.S.Puram, Main Road,
Tumkur;
12. Sri B.N. Rajanna,
son of B.G.Somasekharaiah,
Gowri Enterprises,
fourth Cross, Vijayanagara,
S.S.Puram, Tumkur-2;
13. Sri S.Mahalingaiah,
son of Siddananjappa,
C.S.Puram,
Tumkur-2;
14. Sri S.P.Mruthyunjaya,
son of Sri Basappa,
retired Teacher,
S.S.Puram, Main Road,
Tumkur-2;
15. Sri G.S.Prabhudev,
Advocate,
Tumkur

.. Petitioners

(By Sri D.S.Lingappa, Advocate)

-Vs-

1. The City Municipal Council,
Tumkur, by its Commissioner;
2. The Commissioner,
City Municipal Council,
Tumkur;
3. Sri T.A.Channappa,
father's name not known to
petitioners,
Allashetty Korepalya,
Tumkur;
4. The Divisional Commissioner,
Bangalore Division,
Bangalore;

(By Sri S. Mahesh for R1 and R2;
Sri B.K.Manjunath, Adv., for R3;
Sri A. Nagarajappa, AGA, for R4)

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Writ Petition is filed praying to quash the order dated 6-2-1992 in No.MUN.RP.23/90-91 vide Annexure-F; and the order dated 8-11-1990 in No. RD(5) CR.654/90-91 vide Annexure-D respectively.

This writ petition coming on for preliminary hearing in 'B' Group this day, the Court made the following:-

ORDER

The first petitioner is a Society registered under the Karnataka Societies Registration Act. Petitioners 2 to 15 are its members. The first petitioner claims that it has been established for promoting education, literature, sports etc. The first petitioner claims to have sought allotment of a vacant plot of land belonging to the first respondent measuring 50' X 18' X 80'² bearing katha No.3053 of Someshwara Extension, Tumkur, so that it could make use of it for celebrating Basava Jayanthi and conducting sports and cultural activities. According to petitioners, the fourth respondent had also recommended grant of the site in favour of the first petitioner. In the meanwhile, certain land belonging to the third respondent was acquired by the first respondent Municipality and a resolution was passed by the first respondent on 31-1-1969 proposing to allot an alternative site bearing katha No.3053, Someshwara Extension, Gokulanagar, measuring 20' X 45' X 80'² and that resolution was approved by the Government under Section 72 of the Karnataka Municipalities Act; that this Court in W.P.No.16819/1982 had also

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directed the first respondent herein to allot an alternative site in lieu of the land acquired from the third respondent. Accordingly, the first respondent executed a registered deed dated 8-10-1990 conveying the said site bearing katha No.3053, Someshwara Extension, Gokulanagar, measuring 20' X 45' X 80'~~20'~~. In pursuance of such conveyance in ² favour of the third respondent, the katha was also transferred to the name of the third respondent by order dated 8-11-1990 [Annexure-D] passed by the second respondent. Feeling aggrieved, the petitioner filed a revision petition before the fourth respondent. The fourth respondent rejected the revision petition by his order dated 6-2-1992 [Annexure-F]. Feeling aggrieved, petitioner has filed this petition for quashing the order dated 8-11-1990 [Annexure-D] by which katha in regard to the said plot was transferred to the name of the third respondent and for quashing the order dated 6-2-1992 [Annexure-F] passed by the fourth respondent rejecting the revision petition.

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2. The first petitioner contends that it had made an application for grant of the said plot of land and even the Divisional Commissioner had made a recommendation for allotment of the said plot and without considering their request, the said plot has been given to the third respondent. It is also contended that the Government had approved the grant of a site to third respondent in Gokul Extension and not Someshwara Extension and, therefore, the said plot could not have been given to the third respondent.

3. According to the first petitioner, it had made an application for grant of the said plot somewhere in the year 1980. On the other hand, the Municipality had passed a resolution to give the ~~said~~ plot to third respondent in lieu of the land acquired from the third respondent as long back as in 1969. In fact, this Court had also directed that an alternative plot of land should be given to the third respondent. The Government had also given its approval for grant of the said land. Further, it has been clarified that Someshwara Extension is a part of Gokulanagar and they are not two different areas. In the circumstances, it

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cannot be said that the transfer of the said plot by the Municipality in favour of the third respondent is irregular or illegal. Having regard to the facts and circumstances, the grant in favour of the third respondent cannot be objected to by the petitioner. It is always open to the petitioner to pursue its application for grant of a suitable site before the first respondent. The petitioners have not made out any ground for quashing the transfer of katha in favour of the third respondent or the rejection of the revision petition by the fourth respondent. When the land has been conveyed to the third respondent by the Municipality, the Municipality is bound to transfer the katha in regard to the land in favour of the third respondent.

4. Petition is, therefore, rejected reserving liberty to the petitioners to pursue the application for allotment of a suitable site in accordance with law.

Sd/-
JUDGE

Bnr/-

